THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.22845 OF 2007

Dated 6th November, 2007

Between :

M/s Madhavi Ag-Pet Private Ltd. … Petitioner

And

The Commercial Tax Officer and

Two others … Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.22845 OF 2007

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

Heard learned counsel for the parties.

The petitioner had filed an appeal against an order of assessment beyond time. He had also filed a writ petition in this Court challenging the order of assessment. On the last occasion, this Court observed that two remedies could not be pursued at the same time and the learned counsel for the petitioner submits that he has withdrawn the appeal. He submits that, in any case, there was no chance of his succeeding in the appeal, because the appeal had been filed after 48 days of the limitation period. The appellate authority under the statute has power to condone the delay of only 30 days and therefore, the appeal would have been dismissed in any case.

Since the petitioner has been late in filing the appeal, which he has now withdrawn, by 18 days only, therefore, after hearing learned counsel for the parties, we feel that it would be proper to direct the appellate authority to revoke the order of withdrawal of the appeal and take the appeal on record. Accordingly, we direct the appellate authority to revoke the order of withdrawal of the appeal and take the appeal on record again and dispose it of on merits.

The writ petition is accordingly disposed of. No order as to costs.

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Bilal Nazki,J

Dated 6th November, 2007

Ramesh Ranganathan,J

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